



## LEVENTHAL SENTER &amp; LERMAN PLLC

January 28, 2004

JOHN W. BAGWELL  
(202) 416-6767E-MAIL  
JBAGWELL@LSL-LAW.COM

RECEIVED

JAN 28 2004

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARYMs. Marlene Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554**Re: Comments of East Kentucky Radio Network, Inc.  
MB Docket No. 03-120 RM - 10591**

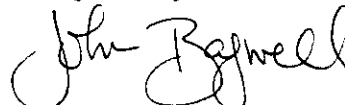
Dear Ms. Dortch:

On behalf of East Kentucky Radio Network, Inc. ("East Kentucky"), licensee of Station WXCC(FM), there is transmitted herewith, an original and four copies of East Kentucky's Comments in connection with the above referenced matter.

Please date-stamp the enclosed "Return Copy" of this filing and return it to the courier delivering this package.

Should there be any questions concerning this matter, please contact the undersigned.

Respectfully submitted,

  
John W. Bagwell

Enclosure

JAN 28 2004  
List ABCDE

RECEIVED

JAN 28 2004

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

# Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

Amendment of Section 73.202(b)

Table of Allotments

FM Broadcast Stations

(Lake City and Chattanooga, Tennessee)

)  
)  
)  
)  
)

MB Docket No. 03-120

RM - 10591

To: Assistant Chief, Audio Division  
Media Bureau

## COMMENTS OF EAST KENTUCKY RADIO NETWORK, INC.

East Kentucky Radio Network, Inc. ("East Kentucky") licensee of Station WXCC(FM), on Channel 243B at Williamson, West Virginia ("WXCC"), by its attorneys, hereby submits these comments in support of the Counterproposal filed by JBD Incorporated ("JBD") in the above-captioned proceeding.<sup>1</sup>

As JBD demonstrates, grant of the Counterproposal would result in a preferential arrangement of FM allotments<sup>2</sup> by permitting first local service at Halls Crossroads, Tennessee, furthering the Commission's third FM allotment priority. Counterproposal at ¶ 4. The allotment would also provide a net gain in population served of 326,568 persons and will eliminate three existing short spacings.

---

<sup>1</sup> These Comments are timely filed pursuant to 47 C.F.R. §§ 1.415, 1.4(e)(1), and 1.4(j)

<sup>2</sup> The Commission's established FM allotment priorities, in descending order of importance, are: (1) provision of first full-time aural reception service, (2) provision of second full-time aural service; (3) provision of first local transmission service, and (4) provision of additional services, with the second and third priorities having equal weight. *Faye and Richard Tuck, Inc.*, 3 FCC Rcd 5374, 5376 (1988).

In addition, as demonstrated in the attached Technical Report in Support of Comments, prepared by Charles M. Anderson, grant of the Counterproposal would permit WXCC to upgrade to a Class C1 facility on channel 243.<sup>3</sup> This upgrade would create additional reception service for 147,547 persons, an increase of 60.5% over the number of people contained within WXCC's current 1.0 mV/m signal contour. The proposed upgrade would also result in an expansion of WXCC's coverage area by an additional 6,589 square kilometers, a 76% increase over the current service area. The provision of such additional service would advance the Commission's fourth allotment priority while creating no loss area, as all of the current service area and population would be fully contained within the new WXCC signal contour. Technical Report at E-1C.

By providing first local service to Halls Crossroads, Tennessee, and creating the opportunity for additional aural reception service for more than 147,000 additional persons, grant of the Counterproposal will further the Commission's mandate of making "such distribution of licenses ... among the several States and communities as to provide a fair, efficient and equitable distribution of radio service." 47 U.S.C. § 307(b).

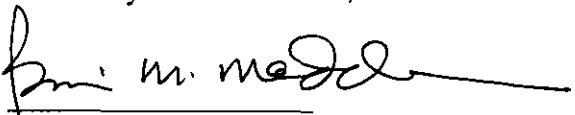
---

<sup>3</sup> East Kentucky has filed an application to effect this upgrade in service (File Number CDBS20040128ACY.)

For the foregoing reasons, East Kentucky respectfully requests that the Commission approve JBD's Counterproposal, which would also allow the grant of East Kentucky's pending application for improvement in the facilities of Station WXCC. Together, these proposals will result in a net gain of service to almost 500,000 people.

Respectfully submitted,

East Kentucky Radio Network, Inc.

By: 

Brian M. Madden  
John W. Bagwell

Leventhal Senter & Lerman PLLC  
2000 K Street, NW, Suite 600  
Washington, DC 20006  
(202) 429-8970

January 28, 2004

Its Attorneys

# **Charles M. Anderson and Associates**

Broadcast Consultants  
1519 Euclid Avenue  
Bowling Green, KY 42103

Phone 270-782-0246  
Fax 270-793-9129  
Cell 270-535-4432

## **TECHNICAL REPORT IN SUPPORT OF COMMENTS**

This technical report is provided for inclusion in comments by East Kentucky Radio Network, licensee of station WXCC on channel 243B at Williamson, WV, in support of the counterproposal by JDB Inc in MM Docket No. 03-120. JDB proposes to reallocate station WXJB from Harrogate, TN on channel 243A to Halls Crossroads, TN on channel 244A.

As demonstrated in the attached Exhibits E-1A and E-1B, the relocation of WXJB as proposed will accommodate a fully spaced allocation point for the upgrade of WXCC to a Class C1 facility on channel 243, and permit the grant of an application to upgrade WXCC. This upgrade as proposed at an existing tower site will provide 60 dBu service to a population of 390,871 and an area of 15,266 square kilometers. This represents a gain of 147,547 (+60.5%) in population and a gain of 6,589 square kilometers (+76%) in area. Plots of the existing and proposed WXCC 60 dBu service areas is included as Exhibit E-1C. Clearly there will be no loss area.

A fully spaced reference point for the WXCC 243C1 allocation is proposed at N 37-31-07 W 82-10-49. The fully spaced site is entirely arbitrary. Any number of sites could be selected. Furthermore, unobstructed city-grade service can be provided from the reference point to the city of Williamson, WV with a full facility C1. WXCC proposes to utilize an existing cellular tower at coordinates N 37-37-20 W 82-18-58 employing a directional antenna to eliminate any prohibited overlap. The population and area

# Charles M. Anderson and Associates

Broadcast Consultants  
1519 Euclid Avenue  
Bowling Green, KY 42103

Phone 270-782-0246  
Fax 270-793-9129  
Cell 270-535-4432

comparisons are based on the actual proposed facility rather than a maximum class C1 facility at the reference point.

Areas, populations and contours were developed utilizing V-Soft

Communications PROBE III software, the VSOF 30 second terrain database and the 2000 Census



---

Charles M Anderson January 26, 2004

© 2004 by Charles M. Anderson and Associates

# **E-1A WXCC FULLY SPACED REFERENCE POINT**

REFERENCE  
37 31 07 N  
82 10 49 W

CLASS = C1  
Current Spacings

DISPLAY DATES  
DATA 01-23-04  
SEARCH 01-25-04

----- Channel 243 - 96.5 MHz -----

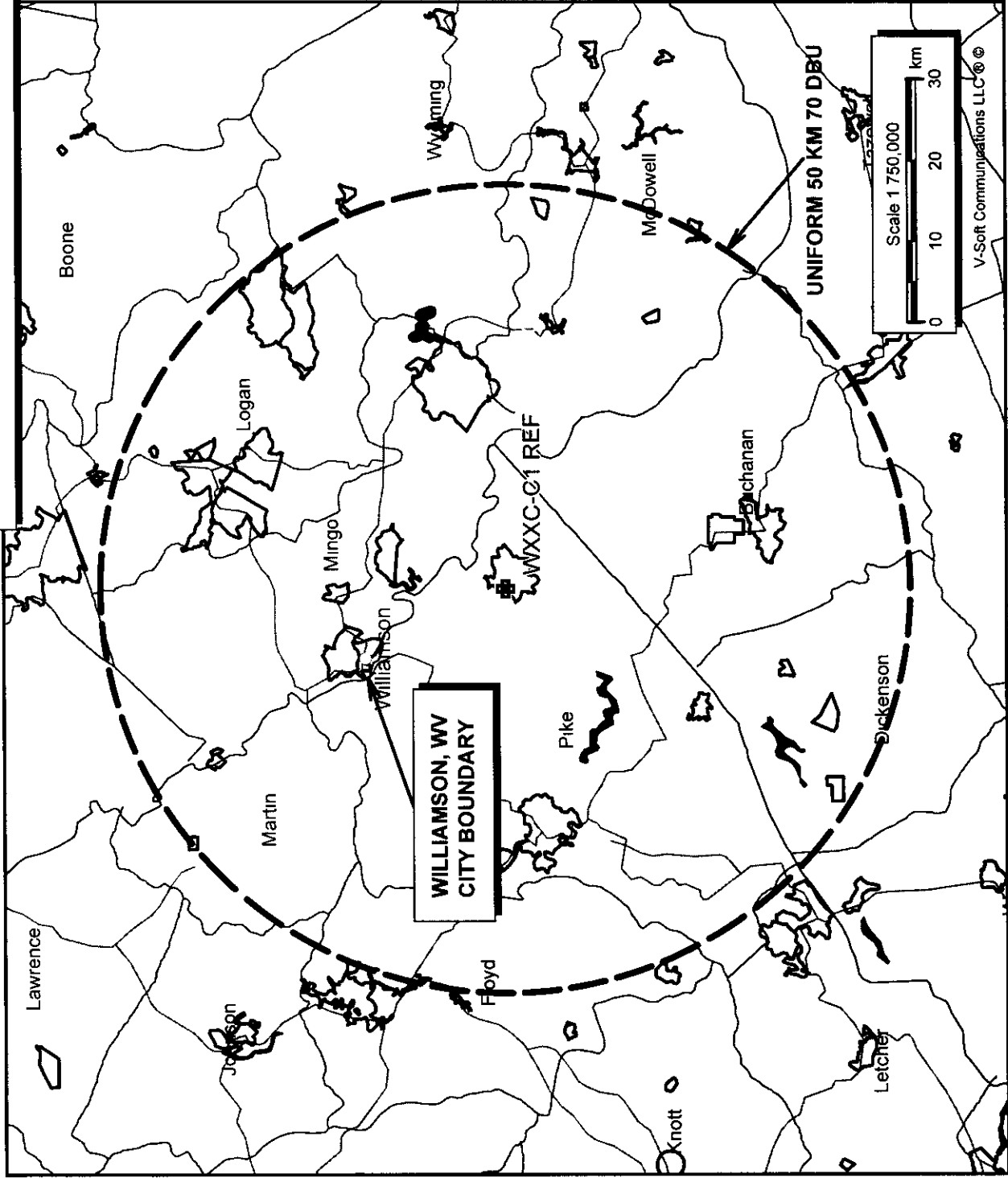
Call	Channel	Location	Dist	Azi	FCC	Margin
WXCC	LIC 243B	Williamson	WV 18.46	335.0	270.0	-251.54
RDEL	DEL 243A	Harrogate	TN 162.30	230.3	200.0	-37.70***
WXJB	LIC-Z 243A	Harrogate	TN 162.30	230.3	200.0	-37.70
WIVY	LIC 242A	Morehead	KY 133.75	303.9	133.0	0.75
WYGY	LIC 243B	Lebanon	OH 276.64	318.2	270.0	6.64
WOXLFM	CP -Z 243C3	Biltmore Forest	NC 218.55	191.8	211.0	7.55
WKOVM	LIC 244B1	Wellston	OH 171.59	347.9	161.0	10.59
WXBQFM	LIC-D 245C	Bristol	TN 120.53	178.1	105.0	15.53
WSTG	LIC 240A	Princeton	WV 93.43	107.8	75.0	18.43
WROVM	LIC 242C1	Martinsville	VA 196.95	102.5	177.0	19.95
RADD	ADD 244A	Manchester	KY 153.68	259.0	133.0	20.68
WKWS	LIC 241B	Charleston	WV 100.60	20.9	79.0	21.60
RDEL	DEL 244A	Annville	KY 154.73	259.1	133.0	21.73
ALLO	VAC 244A	Annville	KY 154.73	259.1	133.0	21.73
870831	APP 243A	Biltmore Forest	NC 222.40	187.3	200.0	22.40
WZLS.C	CP 243A	Biltmore Forest	NC 222.75	187.4	200.0	22.75
WBVB	LIC-N 246A	Coal Grove	OH 105.21	343.0	75.0	30.21
WRZK	LIC-Z 240C2	Colonial Heights	TN 115.87	198.2	79.0	36.87
WRZK.C	CP -Z 240C2	Colonial Heights	TN 115.87	198.2	79.0	36.87
WKCBFM	LIC 296A	Hindman	KY 71.01	253.2	22.0	49.01
WXLZFM	LIC-N 297A	Lebanon	VA 74.88	180.3	22.0	52.88
WKAZ	LIC 297B	Miami	WV 101.74	34.2	27.0	74.74
WRKP	LIC-N 243A	Moundsville	WV 286.68	25.1	200.0	86.68
RADD	ADD 244A	Halls Crossroads	TN 219.81	227.2	133.0	86.81
WLVQ	LIC 242B	Columbus	OH 282.04	345.2	195.0	87.04
WJBZFM	LIC 242A	Seymour	TN 221.96	218.1	133.0	88.96
WKKQ	LIC-N 241C3	Barbourville	KY 168.92	245.0	76.0	92.92
WRELFM	LIC-D 244B1	Buena Vista	VA 254.74	83.9	161.0	93.74
WXKYFM	LIC 242C3	Stanford	KY 237.77	271.0	144.0	93.77
WXKYFM	CP 242C3	Stanford	KY 237.77	271.0	144.0	93.77
WBKS	LIC-Z 296A	Ironton	OH 118.96	339.8	22.0	96.96
RADD	ADD 244A	Lake City	TN 233.75	231.8	133.0	100.75
WDBS	LIC 246B	Sutton	WV 183.63	55.0	79.0	104.63
WOTR	LIC 242A	Lost Creek	WV 242.56	41.2	133.0	109.56
WFTMFM	LIC 240A	Maysville	KY 187.80	312.3	75.0	112.80
RDEL	DEL 243C	Chattanooga	TN 384.41	227.9	270.0	114.41
WDODFM	LIC-D 243C	Chattanooga	TN 384.41	227.9	270.0	114.41
WDODFM	CP -D 243C	Chattanooga	TN 384.41	227.9	270.0	114.41
WPSKFM	LIC-N 296C3	Pulaski	VA 138.50	113.0	24.0	114.50
WJKW	LIC-Z 240A	Athens	OH 190.88	2.8	75.0	115.88
WGKS	LIC 245C2	Paris	KY 202.84	290.1	79.0	123.84
RADD	ADD 243C0	Chattanooga	TN 384.41	227.9	259.0	125.41

\*\*\* WXJB MOVE ACCOMODATES A CLASS C1 FACILITY FOR WXCC.

E-1B

WXXC-C1 REF

CHARLES M. ANDERSON AND ASSOCIATES



V-Soft Communications LLC ©

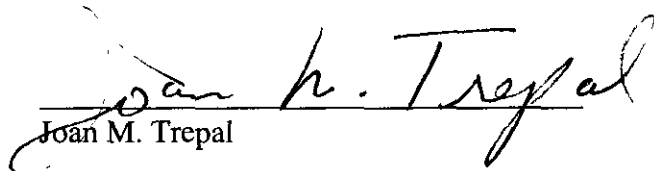




**CERTIFICATE OF SERVICE**

I, Joan M. Trepal, a secretary in the law firm of Leventhal Senter & Lerman PLLC, do hereby certify that true copies of the foregoing "Reply Comments" were mailed, postage prepaid on this 28<sup>th</sup> day of January, 2004, to the following:

- \* Deborah A. Dupont  
Media Bureau  
Federal Communications Commission  
445 Twelfth Street, SW – Room 2-A834  
Washington, DC 20554  
  
Vincent Pepper, Esq.  
Womble, Carlyle, Sandridge & Rice, PLLC  
1401 Eye Street, NW  
Washington, DC 20005  
(Counsel for Petitioner, Ronald C. Meredith)
- Lewis F. Cosby, III  
10215 Thimble Fields Drive  
Knoxville, TN 37922
- Mark N. Lipp, Esq.  
J. Thomas Nolan, Esq  
Vinson & Elkins, LLP  
1455 Pennsylvania Avenue, NW  
Washington, DC 20004-1008  
(Counsel for JBD Incorporated)
- Coe W. Ramsey, Esq.  
Brooks Pierce McLendon  
P.O. Box 1800  
Raleigh, NC 27602  
(Counsel for WDOD of Chattanooga, Inc.)

  
Joan M. Trepal

\*Via Hand Delivery